



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 30, 1993

Ms. Kristi K. Cox  
Strasburger & Price, L.L.P.  
Suite 4300  
901 Main Street  
Dallas, Texas 75202

OR93-397

Dear Ms. Cox:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 20098.

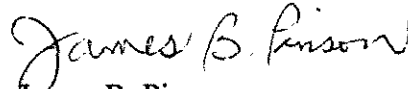
The City of Marlin, which you represent, has received a request for "all information acquired during the investigation of racial misconduct on" the part of the requestor, including "[p]olygraph results and any other related information which must be released by disclosure laws." You have submitted representative samples of the requested information to us for review. You claim that the requested information is excepted from required public disclosure by section 3(a)(3) of the Open Records Act.

To secure the protection of section 3(a)(3), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). You inform us that cause number 31, 278 in the 82nd Judicial District Court of Falls County is currently pending and have shown us that the requested information relates to that litigation for purposes of section 3(a)(3). The requested records therefore may be withheld.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, for example, through discovery or otherwise, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3). We also note that the applicability of section 3(a)(3) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in cursive script that reads "James B. Pinson".

James B. Pinson  
Assistant Attorney General  
Opinion Committee

JBP/GCK/jmn

Ref.: ID# 20098